

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
WTNH Broadcasting, Inc.)	
)	CSR-7412-A
For Modification of the Hartford-New)	
Haven, Connecticut DMA)	

MEMORANDUM OPINION AND ORDER

Adopted: November 14, 2007

Released: November 16, 2007

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. WTNH Broadcasting, Inc., licensee of television broadcast station WCTX (Ch. 59), New Haven, Connecticut (“WCTX”), filed the above-captioned petition for special relief seeking to modify the Hartford-New Haven, Connecticut designated market area (“DMA”) to include communities and unincorporated areas located in Fairfield County, Connecticut.¹ An opposition to this petition has been filed on behalf of Comcast Cable Communications, LLC (“Comcast”) with regard to the three communities it serves – Danbury, Bethel, and Ridgefield, Connecticut (“Comcast communities”). WCTX filed a reply to this opposition. For the reasons stated below, we grant WCTX’s request.

II. BACKGROUND

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission, commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station’s market.² A station’s market for this purpose is its

¹Modification at 1. WCTX requested the following communities for inclusion: Bethel, Bridgeport, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Redding Ridge, Ridgefield, Shelton, Sherman, Stamford, Stratford, Trumbull, Weston, Westport, Wilton, and the unincorporated areas of Fairfield County, Connecticut. We note, however, that several of the requested communities are served by technically-integrated cable systems that serve communities that straddle two separate DMAs (*i.e.*, Shelton, Bridgeport, Fairfield, unincorporated Fairfield County, Stratford, Newtown, Sherman, New Fairfield, Brookfield, Monroe, and Trumbull, Connecticut) and, as a consequence, WCTX already has must carry rights in those communities. *See infra* ¶ 16. Our discussion herein will therefore be limited to the remaining communities that are served by cable systems located solely within Fairfield County.

²*Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, 8 FCC Rcd 2965, 2976-2977 (1993) (“*Must Carry Order*”).

“designated market area,” or DMA, as defined by Nielsen Media Research.³ A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Essentially, each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing hours in the county. For purposes of this calculation, both over-the-air and cable television viewing are included.⁴

3. Under the Act, however, the Commission is also directed to consider changes in market areas. Section 614(h)(1)(C) provides that the Commission may:

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station’s market to better effectuate the purposes of this section.⁵

In considering such requests, the 1992 Cable Act provides that:

the Commission shall afford particular attention to the value of localism by taking into account such factors as in -

- (I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;
- (II) whether the television station provides coverage or other local service to such community;
- (III) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community;
- (IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.⁶

The legislative history of the provision states that:

³Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station’s market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. *See* 47 U.S.C. §534(h)(1)(C). Section 76.55(e) requires that a commercial broadcast television station’s market be defined by Nielsen Media Research’s DMAs. 47 C.F.R. § 76.55(e); *see Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, 14 FCC Rcd 8366 (1999) (“*Modification Final Report and Order*”).

⁴For a more complete description of how counties are allocated, *see* Nielsen Media Research’s *Nielsen Station Index: Methodology Techniques and Data Interpretation*.

⁵47 U.S.C. § 534(h)(1)(C).

⁶*Id.*

where the presumption in favor of [DMA] carriage would result in cable subscribers losing access to local stations because they are outside the [DMA] in which a local cable system operates, the FCC may make an adjustment to include or exclude particular communities from a television station's market consistent with Congress' objective to ensure that television stations be carried in the area in which they serve and which form their economic market.

* * * *

[This subsection] establishes certain criteria which the Commission shall consider in acting on requests to modify the geographic area in which stations have signal carriage rights. These factors are not intended to be exclusive, but may be used to demonstrate that a community is part of a particular station's market.⁷

In adopting rules to implement this provision, the Commission indicated that requested changes should be considered on a community-by-community basis rather than on a county-by-county basis, and that they should be treated as specific to particular stations rather than applicable in common to all stations in the market.⁸

4. In the *Modification Final Report and Order*, the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modifications that requires the following evidence be submitted:

(1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.

(2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas.⁹

(3) Available data on shopping and labor patterns in the local market.

⁷H.R. Rep. 102-628, 102d Cong., 2d Sess. 97 (1992).

⁸*Must Carry Order*, 8 FCC Rcd 2965, 2977 n.139.

⁹Note to Paragraph (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit. The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B contour analysis. In situations involving mountainous terrain or other unusual geographic features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test.

- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.¹⁰

Petitions for special relief to modify television markets that do not include the above evidence shall be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee. The *Modification Final Report and Order* provides that parties may continue to submit whatever additional evidence they deem appropriate and relevant.

III. DISCUSSION

5. The issue before us is whether to grant WCTX's request to include the subject communities as part of its television market for mandatory carriage purposes. WCTX, which is licensed to New Haven, Connecticut, is part of the Hartford-New Haven, Connecticut DMA. Fairfield County, where all of the communities requested for inclusion are located, is part of the New York, New York DMA. For the reasons discussed below, we grant WCTX's request because it is a legitimate request to serve the areas which make up its economic market.

6. WCTX states that it began operations in 1995 and is therefore a relatively new full-time commercial television station affiliated with the My Network Television Network.¹¹ WCTX argues that Fairfield County, which is the only Connecticut county excluded from the Hartford-New Haven DMA, is also the most populous county in the state and is closely connected to the other major cities in the state by its shared governance, economy, labor market, and major transportation routes.¹² WCTX states, however, that Fairfield County is also adjacent to New York City and, because Nielsen places Fairfield County in the New York DMA, cable subscribers in that county necessarily have more access to New York and New Jersey local news, programming and advertising than they would to coverage of Connecticut news and local programming.¹³ WCTX maintains that the Commission has recognized this disparity on

¹⁰47 C.F. R. § 76.59(b).

¹¹Modification at 1. WCTX states that its original call sign when it went on-the-air in 1995 was WTVU and that this call sign soon after changed to WBNE. At that time, WBNE was a WB affiliate, but its affiliation changed to UPN in 2001 and its call letters changed to WCTX. WCTX states that it became affiliated with My Network Television Network in September 2006.

¹²*Id.* at 4 n.11. WCTX states that nearly a third of all Connecticut residents reside in Fairfield County.

¹³*Id.* at 5. WCTX points out, for instance, that cable subscribers in Fairfield County would only have access to coverage of Connecticut politics only to the extent that Connecticut politics are covered by New York DMA stations and political advertisers have to buy time on New York stations in order to reach Fairfield residents.

numerous occasions by granting market modification requests by Hartford-New Haven stations to include Fairfield County.¹⁴ WCTX argues that the Commission should apply the same reasoning in this instance.

7. The first statutory factor is “whether the station, or other stations located in the same area have been historically carried on the cable system or systems within such community.”¹⁵ WCTX argues that, although it has never been carried on any cable system serving communities in Fairfield County, it is clear that viewers in that county are interested in viewing Connecticut stations, as evidenced not only by the ratings WCTX achieves in the noncable households of Fairfield County, but by the number of Connecticut stations that are carried on the three cable systems serving that area.¹⁶ Comcast argues in opposition that, despite WCTX’s attempt to downplay the importance of historic carriage, the fact remains that WCTX has never been carried by any cable system operating in Fairfield County.¹⁷ Comcast notes that the Commission has consistently held that historic carriage will be considered along with the other three market modification factors.¹⁸ As a result, Comcast argues, WCTX’s failure to meet this criterion weighs in favor of denying WCTX’s request with regard to the Comcast communities. In reply, WCTX states that there is no dispute that it has not been carried on any Fairfield County cable systems since it first went on-the-air in 1995.¹⁹ Nevertheless, WCTX argues, the Commission has recognized that a lack of carriage does not preclude granting a modification request.²⁰ WCTX maintains that this is especially true here because the Danbury system carries numerous other stations licensed to the same or nearby communities as the petitioning station.²¹

8. The second statutory factor is “whether the television station provides coverage or other local service to such community.”²² WCTX argues that its transmitter site is geographically close to the subject communities with distances ranging from 20 miles to 36 miles and there are no geographic

¹⁴*Id.* at 5-6, citing *Modification of the Television Markets of Television Stations WFSB and WVIT*, 10 FCC Rcd 4939 (1995); *61 Licensee, Inc.*, 10 FCC Rcd 4929 (1995); *SNET Personal Vision*, 12 FCC Rcd 5958 (1997); *Cook Inlet Communications, Inc.*, 10 FCC Rcd 3278 (1995); *Counterpoint Communications, Inc.*, 10 FCC Rcd 4932 (1995); *Paxson New York License, Inc.*, 14 FCC Rcd 7715 (1999).

¹⁵47 U.S.C. § 534(h)(1)(C).

¹⁶Modification at 15 and Exhibit 4. The cable systems serving Fairfield County are: Comcast – the Danbury system serves Danbury, Bethel and Ridgefield and the Seymour system serves Seymour and Shelton; Charter Communications – the Newtown system serves Sherman, New Fairfield, Brookfield, Newtown, Monroe, and Trumbull; and Cablevision Systems Corp. – the Bridgeport system serves Bridgeport, Fairfield County, and Stratford and the Norwalk system serves Darien, Easton, Greenwich, New Cannon, Redding, Stamford, Weston, Westport, and Wilton. WCTX notes that it is already entitled to must carry status on Cablevision’s Bridgeport system and Comcast’s Seymour system because those systems also serve communities within the Hartford-New Haven DMA. *See* 47 C.F.R. § 76.55.

¹⁷Opposition at 2.

¹⁸*Id.*, citing *Time Warner Cable*, 12 FCC Rcd 23249 (1997); *TCI of Illinois, Inc., et al.*, 12 FCC Rcd 23231 (1997); *Dynamic Cablevision of Florida, Ltd., et al.*, 11 FCC Rcd 9880 (1996), *aff’d*, 14 FCC Rcd 13783 (1999).

¹⁹Reply at 2.

²⁰*Id.*, citing *Comcast Cablevision of Danbury, Inc.*, 18 FCC Rcd 274 at para. 8 (2003) (lack of historic carriage not given significant weight where station was recently acquired and new format bore no relationship to any of its previous identities).

²¹*Id.* at 2 n.5.

²²47 U.S.C. § 534(h)(1)(C).

boundaries between WCTX and the communities.²³ WCTX states that these distances are well within the range that the Commission has found acceptable in previous market modification decisions.²⁴ WCTX asserts that, despite being licensed to a community in a separate DMA, its primary service area includes the subject communities.²⁵ Moreover, WCTX states, its city of license is geographically closer to Fairfield County than any of the other Hartford-New Haven DMA stations previously granted market modification.²⁶ With a majority of Fairfield County residents both living and working in Connecticut, WCTX argues that it has the ability to provide service that would connect those residents with businesses and opportunities in their home state.²⁷ In addition, WCTX states that although Fairfield County may be assigned by Nielsen to the New York DMA, the U.S. Office of Management and Budget (“OMB”) combines Fairfield County with several individual New England City and Town Areas (“NECTA”) or Combined New England City and Town Areas (“CNECTA”) – the Bridgeport-Stamford-Norwalk, Connecticut NECTA, the Danbury, Connecticut NECTA, and the Bridgeport-New Haven-Stamford, Connecticut CNECTA.²⁸ WCTX also states that Fairfield County is linked to the other Connecticut counties via major highways and interstate as well as public transportation, and that WCTX reports daily on Fairfield County traffic conditions.²⁹

9. WCTX argues further that it provides predicted Grade B contour coverage over all of the communities at issue, including the Comcast communities, and City Grade contour coverage over the vast majority of Fairfield County.³⁰ Moreover, WCTX states that, according to Longley-Rice, its Grade B coverage encompasses even the most distant of the subject communities.³¹ WCTX also argues that it airs a variety of programming geared to the communities, including local news, syndicated programming, political affairs, religious programs, and local sports.³² WCTX maintains that it provides programming dealing with local interests and issues that are not available from other sources, provides 8.5 hours of local news programming per week and provides daily traffic and weather reports.³³

²³Modification at 7-8 and Exhibits 3 and 7. WCTX states that the average distance from the majority of communities at issue is 40 miles.

²⁴*Id.*

²⁵*Id.*

²⁶*Id.*

²⁷*Id.* at 8-9. WCTX states that, alternatively, only a very small percentage of New York DMA residents work in Fairfield.

²⁸*Id.* at 9-10. WCTX states that OMB lists the Bridgeport-New Haven-Stamford, Connecticut CNECTA as including the Bridgeport-Stamford-Norwalk NECTA, the Danbury NECTA, the New Haven NECTA and the Waterbury NECTA.

²⁹*Id.* at 10.

³⁰*Id.* at Exhibit 5.

³¹*Id.* at Exhibit 6.

³²*Id.* at 12.

³³*Id.* at 12-13. WCTX states that between September 2006 to April 2007, it broadcast 97 news stories about Fairfield County and its residents dealing with local current events, crimes occurring in the area, local companies, health issues, fundraisers, local politics and education.

10. In opposition, Comcast argues that WCTX's own Longley-Rice study actually reveals that the station's Grade B contour coverage is not as all-encompassing as suggested.³⁴ Indeed, Comcast states, it appears that the Comcast communities fall within significant gaps in WCTX's Grade B coverage, presumably due to geographic obstacles.³⁵ Comcast argues that, to the extent that WCTX's Grade B contour does cover the Comcast communities, the Commission has held that a station's Grade B coverage is far from conclusive in the market modification, particularly in situations where a station is seeking to expand its must carry market.³⁶ Comcast argues further that WCTX does not provide programming that is specifically tailored to the Comcast communities and the examples it cites can only be considered of general interest to Fairfield County residents.³⁷ Comcast maintains that in *TCI Cablevision of Texas, Inc.*, the Commission found that anecdotal local programming, similar to that identified by WCTX, was insufficient to satisfy the local coverage factor.³⁸ In any event, Comcast asserts that WCTX's program offerings are substantially duplicated by the other local broadcast stations it already carries on its cable system.³⁹ Indeed, Comcast states that it currently carries WWOR-TV (Ch. 9), Secaucus, New Jersey, the New York DMA affiliate of My Network TV with programming identical to that of WCTX in the critical prime time hours of 8 p.m.–10 p.m. Monday thru Friday.⁴⁰ Moreover, Comcast states that most of the syndicated programming aired by WCTX is already available to the Comcast communities on either WWOR or other in-market stations carried on its system.⁴¹ Comcast argues that the bulk of WCTX's remaining programming appears to be either paid programming or shop-at-home programming with no particular nexus to the Comcast communities.⁴²

11. Comcast argues further that the Comcast communities are not closely connected to New Haven by either direct commuting or transportation routes.⁴³ Indeed, Comcast states that the subject communities are more than 40 miles away and an average driving distance of more than one hour from New Haven.⁴⁴ Comcast maintains that its communities have long been a part of the New York DMA and, geographically, are only a few miles from the New York State border.⁴⁵ Finally, Comcast argues that WCTX's reliance on previous Commission decisions which granted the market modification requests of other Hartford-New Haven DMA stations to include Fairfield County communities is misplaced.⁴⁶ Comcast states that, unlike the situation here, the Commission found that the stations seeking market

³⁴Opposition at 3.

³⁵*Id.*, citing Modification at Exhibit 6.

³⁶*Id.*, citing *Broad Street Television, L.P.*, 10 FCC Rcd 5576 (1995) (denying broadcaster's market modification petition despite Grade B coverage).

³⁷*Id.* at 3-4.

³⁸*Id.* at 4, citing 12 FCC Rcd 12031, 12039 (1997).

³⁹*Id.*

⁴⁰*Id.* at Exhibits 2-3.

⁴¹*Id.* at Exhibit 4.

⁴²*Id.* at 5 and Exhibits 2 and 4.

⁴³*Id.* at 5.

⁴⁴*Id.* at Exhibits 5 and 6.

⁴⁵*Id.* at 5 and Exhibit 5.

⁴⁶*Id.* at 7.

modification were historically carried, provided strong local coverage or programming targeted to the relevant communities and, in most cases, has significant viewership in the communities.⁴⁷

12. In reply, WCTX reiterates that it provides Grade B coverage to the Comcast communities, as demonstrated by the Grade B signal contour map and the Longley-Rice analysis submitted with its petition.⁴⁸ WCTX states that Comcast not only fails to elaborate on its assertion that there are “significant gaps” in WCTX’s Grade B coverage, but it has not alleged that WCTX fails to provide a good quality signal at the Danbury system headend.⁴⁹ In any event, WCTX argues that Comcast is currently carrying WTNH-TV, which is not only licensed to the same community as WCTX, but broadcasts from the same tower.⁵⁰ WCTX argues that New Haven is just 26-30 miles from the Comcast communities, which is well within the range the Commission has found acceptable in other market modification determinations and is significantly closer to the subject communities than almost all the other stations carried on the Danbury system.⁵¹ WCTX also disputes Comcast’s allegation that it failed to provide significant local programming to the Comcast communities, arguing instead that it provided a detailed summary of its local programming, including 10 news stories specific to the communities at issue.⁵² In addition, WCTX adds that it provides programming of interest to Comcast communities that is only available on WCTX such as University of Connecticut football and basketball games for the 2007-2010 seasons.⁵³ Finally, while WCTX does acknowledge that WWOR’s My Network programming is duplicative, it maintains that WWOR fails to provide the local news and sports programming provided by WCTX.⁵⁴

13. The third statutory factor is “whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community.”⁵⁵ We believe that Congress did not intend this factor to bar a request to modify a DMA when other stations could be shown to serve the communities at issue. Rather, we believe this criterion was intended to enhance a station’s market modification claim where it could be shown that other stations do not serve the communities at issue. WCTX argues that each of the other stations licensed to the Hartford-New Haven DMA are only carried by Fairfield County cable systems through the grant of a market modification request.⁵⁶ WCTX maintains that it is seeking nothing more than treatment equivalent to that granted to the other stations assigned to the Hartford-New Haven DMA.

⁴⁷*Id.* at 7-8.

⁴⁸Reply at 3.

⁴⁹*Id.*

⁵⁰*Id.*

⁵¹*Id.* at 4-5.

⁵²*Id.* at 5-6.

⁵³*Id.* at 7.

⁵⁴*Id.* at 8.

⁵⁵47 U.S.C. § 534(h)(1)(C).

⁵⁶Modification at 16.

Comcast argues in opposition that it currently carries numerous New York DMA broadcast stations, all of which provide extensive local coverage.⁵⁷

14. The fourth statutory factor concerns “evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.”⁵⁸ WCTX argues that, according to Nielsen, it has a 1.1 percent viewership rating and a 5 percent share in the noncable households in Fairfield County Monday-Sunday (7 a.m. – 1 a.m.) and its late news achieves a 3 percent viewership rating and a 6 percent share in noncable households Monday-Sunday (10 – 10:30 p.m.).⁵⁹ WCTX points out that WTNH-TV, the only other station licensed to New Haven, has the highest rating in noncable households in Fairfield County (4.5 percent viewership rating and 20 percent share) only underscores the importance of Connecticut stations to the residents of the county.⁶⁰ Comcast argues that the viewership statistics provided by WCTX only serves to demonstrate that the station’s viewership in Fairfield County is limited and isolated to only a few dayparts in noncable households.⁶¹ WCTX argues in reply that, despite Comcast’s assertions, its viewership ratings exceed viewership figures that the Commission has previously found sufficient in other market modification requests involving Fairfield County.⁶² Indeed, WCTX states, Nielsen ratings through July 2007 demonstrate that WCTX’s local news with a 3.7 percent share outranks all other local news programs except those of WNYW, WABC, and WTNH, and that WCTX’s sign-on to sign-off ratings beats 13 of the 20 stations currently carried on the Danbury system.⁶³

15. Section 614(h)(1)(C) of the Communications Act authorizes the Commission to include or exclude particular communities from a television station’s market for the purposes of ensuring that a television station is carried in the areas which it serves and which form its economic market.⁶⁴ Section 614(h)(1)(C)(i) specifically and unambiguously directs the Commission, in considering requests for market modification, to afford particular attention to the value of localism by taking four statutory factors into account.⁶⁵ The only communities at issue in this proceeding are those served by Comcast’s Danbury system (Danbury, Bethel, and Ridgefield) for which there is an opposition, and Cablevision’s Norwalk system (Darien, Easton, Greenwich, New Canaan, Redding, Redding Ridge, Stamford, Weston, Westport, Wilton, and Norwalk). WCTX originally requested market modification to include Fairfield County communities served by three other cable systems – the Seymour system (served by Comcast); the Newtown system (served by Charter Communications); and the Bridgeport system (served by Cablevision Systems Corp.). In its modification request, WCTX pointed out that it was already entitled to must carry status on the Bridgeport and Seymour cable systems because those systems also served

⁵⁷Opposition at 6. Comcast states that it carries WCBS, WNBC, WNYW, WABC, WWOR, WPIX, WNJU, WTBY, WXTV, WFUT and WRNN.

⁵⁸47 U.S.C. § 534(h)(1)(C).

⁵⁹Modification at 15 and Exhibit 9.

⁶⁰*Id.* at 15-16 and Exhibit 9.

⁶¹Opposition at 7. Comcast states that a viewership study it obtained from Media Strategies reveals no viewership for WCTX in all of Fairfield County. *See* Exhibit 7.

⁶²Reply at 8.

⁶³*Id.* at Exhibit 1.

⁶⁴47 U.S.C. § 534(h)(1)(C).

⁶⁵47 U.S.C. § 534(h)(1)(C)(i).

communities located within the Hartford-New Haven DMA.⁶⁶ A check of Commission records verified the fact that both Comcast's Seymour cable system and Cablevision's Bridgeport cable system serve communities located in both the Hartford-New Haven DMA and the New York DMA.⁶⁷ In addition, Commission records also indicated that Charter's Newtown cable system serves communities located in both the New York DMA and the Hartford-New Haven DMA.⁶⁸ In the *Must Carry Order*, the Commission stated that "in situations where a cable system serves a community or communities in more than one county and those counties are assigned to different [DMAs], the cable operator must carry all of the local commercial television signals in both [DMAs]. . . ."⁶⁹ The Seymour, Bridgeport, and Newtown cable systems appear to fall within this category. As a result, WCTX already has must carry rights in the communities of Shelton, Bridgeport, Fairfield, Fairfield County, Stratford, Newtown, Sherman, New Fairfield, Brookfield, Monroe, and Trumbull, Connecticut, and there is no need to grant market modification for their inclusion into WCTX's market.

16. Comcast has argued that WCTX's Grade B service is doubtful, that its local programming is generalized and not specific to its communities, that the majority of its programming is duplicative to WWOR-TV, that the station has no historic carriage, and that WCTX has minimal viewership in Fairfield County.⁷⁰ After reviewing the record in this proceeding, however, and taking into consideration and weighing all factors, we conclude that the statutory factors previously discussed favor granting WCTX's petition to include the Danbury and Norwalk systems communities in its television market. While it is true that WCTX itself does not have historic carriage, WTNH-TV, a station licensed to the same community as WCTX and broadcasting from the same tower, has a long history of carriage.⁷¹ Section 614(h)(1)(C) of the Act states that the historic carriage factor can be met by the carriage of other stations from the same area or community.⁷² In addition, WCTX provides Grade B or better service to the communities. While Comcast alleges that WCTX's Grade B service has gaps, we find these to be minimal. Moreover, the fact that Comcast carries WTNH-TV on its system, a station that broadcasts from the same tower as WCTX, indicates that Comcast can receive WCTX's signal. With regard to programming, although WCTX does not provide a detailed program log, it appears that WCTX does provide more than 8 hours of local programming per week not otherwise available to Comcast's and

⁶⁶See Modification at 15 n.38; *supra* n.16 above.

⁶⁷Comcast's Seymour system serves the following communities: Seymour, Shelton, Ansonia, Beacon Falls, Bethany, Derby, Huntington, Plymouth, Naugatuck, Oxford, Prospect, Wolcott, Waterbury, and Middlebury. Only one community, Shelton, is actually located in Fairfield County. The rest are located in New Haven County, Connecticut. Cablevision's Bridgeport system serves the following communities: Bridgeport, Fairfield, Fairfield County, and Stratford, which are located in Fairfield County, and Milford, Woodbridge, and Orange, which are located in New Haven County.

⁶⁸According to our records, Charter's Newtown system serves the following communities: Sherman, New Fairfield, Brookfield, Newtown, Monroe, and Trumbull (Fairfield County); Barkhamsted, Bethlehem, Bridgewater, Colebrook, Harwinton, Kent, New Hartford, New Milford, Roxbury, Washington, Warren, and Winchester (Litchfield County); Southbury, and Woodbury (New Haven County); and West Hartland (Hartford County).

⁶⁹See *Must Carry Order*, 8 FCC Rcd at 2975.

⁷⁰WCTX achieves shares of 0/3 in Fairfield County, as opposed to WWOR-TV which receives a 1/14 share.

⁷¹In *Cook Inlet Communications, Inc.*, 10 FCC Rcd 3278 (1995), WTNH-TV was granted market modification to include communities located in Fairfield County. The communities served by the Danbury and Norwalk systems were among these communities.

⁷²47 U.S.C. § 534(h)(1)(C).

Cablevision's subscribers, including sports and local news. Further, while some of WCTX's programming may be duplicative of WWOR-TV, we note that no opposition from WWOR-TV has been received regarding the instant request. In view of the foregoing, we find that grant of WCTX's request, with regard to the communities of Danbury, Bethel, Ridgefield, Darien, Easton, Greenwich, New Canaan, Norwalk, Redding, Redding Ridge, Stamford, Weston, Westport, and Wilton, Connecticut is in the public interest.

IV. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. § 534, and Section 76.59 of the Commission's rules, 47 C.F.R. § 76.59, that the captioned petition for special relief (CSR-7412-A), filed by WTNH Broadcasting, Inc. **IS GRANTED** for the communities of Danbury, Bethel, Ridgefield, Darien, Easton, Greenwich, New Canaan, Norwalk, Redding, Redding Ridge, Stamford, Weston, Westport, and Wilton, Connecticut.

18. **IT IS FURTHER ORDERED**, that Comcast Cable Communications and Cablevision Systems will commence carriage of WCTX within sixty (60) days of the date that WCTX provides a good quality signal to the cable systems' principal headends.

19. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau